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The Beatitudes, Lawyers, and Bob Cochran

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The Beatitudes, Lawyers, and Bob Cochran

Amelia J. Uelmen*

Abstract

Written on the occasion of a celebration of the work and scholarship of Bob Cochran, this reflection draws on his scholarship and also on his teaching and work to build vibrant communities of commitment, service, and scholarship at the intersection of religion, law, and professional life. Working with the text of the Beatitudes from the Gospel of Matthew, the essay highlights the value of how Bob Cochran has aimed not only to “do good,” but also to “be good” in a world and in a profession where it seems increasingly difficult to do so. His legacy offers a powerful inspiration to anyone who hopes to humanize legal education and the legal profession.

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I. INTRODUCTION

I could think of no better way to honor Bob Cochran¹ than to take as a touchstone for my reflection a passage from scripture, and one to which he himself has frequently referred in his own scholarship.² From the Gospel of *Matthew*:

Blessed are the poor in spirit, for theirs is the kingdom of heaven. Blessed are those who mourn, for they shall be comforted. Blessed are the meek, for they shall inherit the earth. Blessed are those who hunger and thirst for righteousness, for they shall be satisfied. Blessed are the merciful, for they shall obtain mercy. Blessed are the pure in heart, for they shall see God. Blessed are the peacemakers, for they shall be called sons of God. Blessed are those who are persecuted for righteousness' sake, for theirs is the kingdom of heaven. Blessed are you when men revile you and persecute you and utter all kinds of evil against you falsely on my account. Rejoice and be glad, for your reward is great in heaven, for so men persecuted the prophets who were before you.³

To take a phrase from *Hamilton*, the Beatitudes are “the world turned upside down.”⁴ As Bob himself has noted, many perceive the world of lawyers as a place where the rich, the strong, and the warlike win, and winners take

1. Throughout this reflection I will refer to Robert F. Cochran, Jr., with the familiar “Bob,” as it connotes the warm collegiality that has informed all of my interactions with him.

2. See, e.g., Robert F. Cochran, Jr., *Honor as a Deficient Aspiration for “The Honorable Profession”*: *The Lawyer as Nostromo*, 69 *FORDHAM L. REV.* 859, 893–94 (2000) [hereinafter Cochran, *Nostromo*] (“The lessons from Nostromo for the individual come straight from the Sermon on the Mount—both honor and wealth ultimately provide little meaning.” (footnote omitted)); Robert F. Cochran, Jr., *Introduction: Blessed are the Compromisers?*, 38 *PEPP. L. REV.* 813 (2011) [hereinafter Cochran, *Blessed are the Compromisers?*]; see also THOMAS L. SHAFFER & ROBERT F. COCHRAN, JR., *LAWYERS, CLIENTS, AND MORAL RESPONSIBILITY* 72 (1st ed. 1994); Robert F. Cochran, Jr. & Dallas Willard, *The Kingdom of God, Law and the Heart: Jesus and the Civil Law*, in *LAW AND THE BIBLE: JUSTICE, MERCY AND LEGAL INSTITUTIONS* 171 (Robert F. Cochran, Jr. & David VanDrunen eds., 2013) [hereinafter Cochran & Willard, *The Kingdom of God*]; Thomas L. Shaffer & Robert F. Cochran, Jr., “Technical” Defenses: *Ethics, Morals, and the Lawyer as Friend*, 14 *CLINICAL L. REV.* 337, 344–45 (2007) [hereinafter Shaffer & Cochran, *Technical Defenses*] (discussing Sharswood’s reference to the space for a “high and pure morality, which breathes through the sermon on the mount” (quoting George Sharswood, in THOMAS L. SHAFFER, *AMERICAN LEGAL ETHICS* 226 (1985))).

3. *Matthew* 5:3–12 (Revised Standard Version).

4. ORIGINAL BROADWAY CAST OF *HAMILTON*, *Yorktown (The World Turned Upside Down)*, on *HAMILTON: AN AMERICAN MUSICAL* (Atlantic Recording Corp. 2015).

all.⁵ Instead, Bob's work—including his personal example of what it means to be a follower of Christ that shines through his collegial relationships and his scholarship—is all about the courage to turn that world upside-down.

In this brief reflection, I will draw not only on Bob's scholarship, but also on seeing Bob in action as our paths have crossed over the years, especially in our parallel work at the intersection of religion, law, and professional life. I hope to highlight how he has aimed not only to "do good" but also to "be good" in a world and profession where it seems increasingly difficult to do so.⁶

II. BLESSED ARE THE POOR IN SPIRIT

"Blessed are the poor in spirit"⁷ As Simon Tugwell writes: "It is really only the poor in spirit who can, actually, have anything, because they are the ones who know how to receive gifts. For them everything is a gift."⁸

In this celebration of Bob's work, it is fitting to recognize Bob's capacity to open himself to all of God's gifts, and how this is a reflection and consequence of his welcoming, trusting, and creative spirit. And it is precisely this "poverty of spirit" that has enabled Bob to generate the most beautiful forms of collaboration. In the early 2000s, Bob and I (together with Russell Pearce) launched parallel projects on religion, law, and ethics.⁹ At Fordham Law, Russ and I opened the Institute on Religion, Law and Lawyer's Work, and at Pepperdine Caruso Law, Bob consolidated his amazing work in the Nootbaar

5. Cochran, *Nostramo*, *supra* note 2, at 884–85 (discussing Germanic honor culture through the lens of the Beatitudes in reverse—praising the rich, the strong, those with strong kinsmen, and the warlike, who wreak vengeance); *see also id.* at 886 (discussing the analogy of the legal profession to the culture of the Old South: "Historically, honor has been a violent business").

6. Shaffer & Cochran, *Technical Defenses*, *supra* note 2, at 346 (comparing and discussing the differences between "be[ing] good" and "[do]ing good").

7. *Matthew* 5:3.

8. SIMON TUGWELL, *THE BEATITUDES: SOUNDINGS IN CHRISTIAN TRADITIONS* 23 (1980).

9. For an overview of the themes that both projects aimed to address, see Robert F. Cochran, Jr., *Introduction: Can the Ordinary Practice of Law Be A Religious Calling?*, 32 PEPP. L. REV. 373 (2005); Russell G. Pearce, *Foreword: The Religious Lawyering Movement: An Emerging Force in Legal Ethics and Professionalism*, 66 FORDHAM L. REV. 1075 (1998). *See generally* Russell G. Pearce & Amelia J. Uelmen, *Religious Lawyering in a Liberal Democracy: A Challenge and an Invitation*, 55 CASE W. RES. L. REV. 127 (2004) (tracing the history of the "religious lawyering" movement); Symposium, *Rediscovering the Role of Religion in the Lives of Lawyers and Those They Represent*, 26 FORDHAM URB. L.J. 821 (1999) (providing various views on the effect of religion on lawyers and their clients); Symposium, *The Relevance of Religion to a Lawyer's Work: An Interfaith Conference*, 66 FORDHAM L. REV. 1075 (1998).

Institute on Law, Religion, and Ethics.¹⁰ Simultaneously, other centers, journals, and programs at religiously affiliated law schools throughout the United States expanded their interdisciplinary work in law and religion to include increasing attention to the intersection of religion and legal ethics.

How did Bob stand in this garden of so many different flowers in bloom? The temptation could have been to try to gather as many resources as possible for one's own project; or to contemplate the beauty of one's own particular flower in an exclusive way. Instead, I always sensed in Bob a person who rejoiced in the beauty of all of the flowers, celebrating not only how God was working through his own gifts and the focus of his institution, but also the positive efforts of others.¹¹

This was always evident in the exquisite hospitality that we have experienced in the conferences at Pepperdine. His enthusiastic contributions to Fordham Law's 2003 conference, *Religious Values and Poverty Law: Clients, Lawyers and Communities*, were especially meaningful for me. Bob's open-hearted and open-minded appreciation is also evident in his ecumenical spirit.¹² So much of his own scholarship is characterized by a profound capacity to appreciate what the various Christian denominations and religious traditions have to offer to reflection on the law.¹³

Blessed are you, Bob: your non-ego driven approach to academic life has granted you tremendous freedom and joy. It would be impossible to measure all of the ways in which you have helped so many people, personally and institutionally, through conferences, gatherings, symposia, and with your personal encouragement, to experience the Kingdom of God among us.

10. See *Faculty & Research: Robert F. Cochran, Jr.*, PEPP. L., <https://law.pepperdine.edu/faculty-research/robert-cochran/>.

11. Cf. CHIARA LUBICH, *Look at All the Flowers*, in *ESSENTIAL WRITINGS* 33 (2007) ("God asks us to look at all the flowers, because he is in them all, and only by observing them all do we love more him than the individual flowers.").

12. Bob's open spirit is especially evident in the introduction to his edited volume, *FAITH AND LAW: HOW RELIGIOUS TRADITIONS FROM CALVINISM TO ISLAM VIEW AMERICAN LAW* (Robert F. Cochran, Jr. ed., 2008). See also Robert J. Condlin, "What's Love Got to Do with It?" "It's Not Like They're Your Friends for Christ's Sake": *The Complicated Relationship Between Lawyer and Client*, 82 NEB. L. REV. 211, 272 n.313 (2003) ("Shaffer and Cochran are ecumenical in their grounding of the friendship analogy, drawing on the work of Martin Buber, Thomas Aquinas, and Karl Barth, among others.").

13. See Robert F. Cochran, Jr., *Catholic and Evangelical Supreme Court Justices: A Theological Analysis*, 4 U. ST. THOMAS L.J. 296 (2006).

III. BLESSED ARE THOSE WHO MOURN

“Blessed are those who mourn”¹⁴ Commentators on this passage point us to a “comprehensive” understanding of mourning that is not limited to a focus on personal grief or sorrow, but rather “an inclusive grief that refers to the disenfranchised, contrite, and bereaved. It is an expression of the intense sense of loss, helplessness, and despair.”¹⁵ As Richard Rohr reflects, in this Beatitude, “Jesus praises . . . those who can enter into solidarity with the pain of the world and not try to extract themselves from it.”¹⁶ Pope Francis has repeatedly encouraged us to pray for “the capacity to weep” when we see the impact of violence, greed, and indifference.¹⁷

It might be helpful to have a vignette of how this challenge can plague a law school classroom. When I was in the midst of doctoral research on the problem of bystanders to violence and the duty to rescue, I was invited to a colleague’s large lecture-style criminal law class for their discussion of *People v. Beardsley*.¹⁸ In this 1907 case, when a man’s mistress became unconscious after taking too much morphine, he stuffed her into a basement apartment to get her out of the way while he hurriedly prepared for his wife’s

14. *Matthew* 5:4.

15. ROBERT A. GUELICH, *THE SERMON ON THE MOUNT* 81 (1982); *see also* *Isaiah* 61:2–3.

16. RICHARD ROHR & JOHN FEISTER, *JESUS’ PLAN FOR A NEW WORLD* 133 (1996).

17. *See, e.g.*, Pope Francis, *In-Flight Press Conference from Philippines to Rome*, VATICAN (Jan. 19, 2015) http://w2.vatican.va/content/francesco/en/speeches/2015/january/documents/papa-francesco_20150119_srilanka-filippine-conferenza-stampa.html (“One of the things that is lost when there is too much wealth or when values are misunderstood or we have become accustomed to injustice, to this throwaway culture, is the capacity to weep. This is a grace we must ask for.”); *see also* POPE FRANCIS, *GAUDETE ET EXSULTATE* ¶ 76 (2018) (“A person who sees things as they truly are and sympathizes with pain and sorrow is capable of touching life’s depths and finding authentic happiness. He or she is consoled, not by the world but by Jesus. Such persons are unafraid to share in the suffering of others; they do not flee from painful situations. They discover the meaning of life by coming to the aid of those who suffer, understanding their anguish and bringing relief. They sense that the other is flesh of our flesh, and are not afraid to draw near, even to touch their wounds. They feel compassion for others in such a way that all distance vanishes. In this way they can embrace Saint Paul’s exhortation: ‘Weep with those who weep.’” (footnote omitted) (citation omitted)). *See generally* Cindy Wooden, *Theology of Tears: For Pope, Weeping Helps One to See Jesus*, CATH. NEWS SERV. (May 5, 2016), <https://www.catholicnews.com/services/englishnews/2016/theology-of-tears-for-pope-weeping-helps-one-see-jesus.cfm> (“Throughout his pontificate, Pope Francis has been sharing a theology of tears: tears of compassion, compunction and consolation.”).

18. 113 N.W. 1128 (Mich. 1907). *See generally* Amelia J. Uelmen, *The Kindness of Strangers and the Limits of the Law: The Moral and Legal Obligations of Bystanders to a Vulnerable Person in Need of Emergency Assistance* 184–87 (2015) (analyzing *People v. Beardsley*) (unpublished S.J.D. thesis, Georgetown University Law Center) (on file at <https://repository.library.georgetown.edu/handle/10822/1047839>).

return.¹⁹ The upshot of the opinion was that he had no duty to assist her because they did not have the kind of relationship that would include a duty of care.²⁰ The court was blind to the fact that it was not that Mr. Beardsley did nothing.²¹ In moving her out of sight, he played a part in assuring that she would not receive the medical assistance that might have otherwise arrived.²²

But what struck me the most during the class discussion was the law students' wooden recitation of the facts, shorn of all emotion. When my colleague asked for my commentary, I stood up and said with a slight dramatic flair, "Doesn't this case make anyone sad? Or angry? Doesn't the characterization of this woman as a worthless prostitute, not worthy of human care or concern, make your blood boil?"

In contrast, as I have traveled portions of my academic journey in Bob's company, whether at conferences, workshops or other gatherings, I have been deeply touched by his ability to recount how a story, a situation, or an encounter has moved him, even to tears. Bob's personal, sincere, emotional engagement with suffering evinces not only his empathy for people who have been touched by tragedy, difficulty, or some other powerful experience, but also his capacity to express a range of emotions even in legal and academic environments.

Blessed are you, Bob, for helping to humanize legal education and academic discussions by opening your heart to suffering in our world, and sharing, even visibly, how this suffering has touched you.²³ I have no doubt that your capacity to feel, to love, to mourn, and also to weep has been an endless source of comfort to many who suffer. I would venture to guess that this gift has also sustained a sense of consolation in your own life. Yours is the Kingdom.

19. *Beardsley*, 113 N.W. at 1129.

20. *Id.* at 1131 ("The fact that this woman was in his house created no such legal duty as exists in law and is due from a husband towards his wife . . .").

21. *See* Uelmen, *supra* note 18, at 186 (explaining that Beardsley acted to conceal and withhold information, which was not "nothing").

22. *Id.* at 186–87.

23. Even the simplicity of Bob's note in response to my email to express concern in the midst of the 2018 Malibu fire evinces his capacity to be simple and honest about what is difficult, and about the need for support: "It has been a hard week, shooting at a dance place we and our kids went to often, fire burning through the campus, classes shut down through Thanksgiving. Good to get notes from you and other friends." Email from Robert F. Cochran, Jr. to author (Nov. 12, 2018, 10:02 AM EST) (on file with author).

IV. BLESSED ARE THE MEEK

“Blessed are the meek”²⁴ It is not easy to speak of meekness in our world today. For some the word connotes a weak and even enabling passivity in the face of manifest injustice or wrong. One commentator wisely suggests: “To see what meekness is, you must look not at meekness but at Christ. Saying meekness is this or that sends you to concepts which are pale copies of reality. Saying ‘Jesus is meek’ sends you to the living reality of it.”²⁵

What are the Christ-like attitudes and attributes in Bob that make this Beatitude visible? Linked with his capacity to mourn is Bob’s capacity to welcome vulnerability as a gift. For example, in an article critiquing an overemphasis on autonomy in client counseling, he explains that this accent “suggests that independence is always good, dependence always bad. But dependence—on neighbors, on friends, on spouses, on parents, and on children (increasingly, at my age)—can be among the greatest joys of human life.”²⁶

For me one of the best examples of Bob’s nuanced appreciation of this Beatitude is his profound analysis of honor as a value in the legal profession, read in light of Joseph Conrad’s *Nostromo*.²⁷ As Bob recounts, the main character in the novel seems to be above reproach, “a perfectly incorruptible fellow.”²⁸ But lurking beneath this appearance, as Conrad smokes out, Nostromo is “obsessed with work and the opinion of the powerful.”²⁹ He had a “life whose very essence, value, reality, consisted in its reflection from the admiring eyes of men.”³⁰

As Bob traces in the article, it is Nostromo’s pursuit of honor which actually leads to his moral downfall.³¹ When a colleague commits suicide, bringing down with him to the bottom of the ocean four blocks of a trove of silver, Nostromo fears that no one would believe his explanation that he did not steal the silver, thus threatening the honor that he had so assiduously tried to guard over many years.³² At that point corruption sets in, and he begins to

24. *Matthew* 5:4.

25. PETER KREEFT, *BACK TO VIRTUE* 140 (1992).

26. Robert F. Cochran, Jr., *Which “Client-Centered Counselors”? A Reply to Professor Freedman*, 40 *HOFSTRA L. REV.* 355, 366 (2011).

27. Cochran, *Nostromo*, *supra* note 2, at 893–94.

28. *Id.* at 865.

29. *Id.* at 866.

30. *Id.* at 869.

31. *Id.* at 871–73.

32. *Id.* at 867.

help himself to the remaining trove of silver, little by little.³³ As Bob summarizes: “Conrad’s message is that up to a point, honor may be effective in encouraging loyalty and service, but that it is a fragile foundation for moral action.”³⁴ The difficulties are further compounded by the “ambiguous effect[] of ‘material interests’ on society.”³⁵ When “richness [is always] one step beyond [one’s] present wealth,”³⁶ the need for honor exacerbates already weak moral foundations.

What is Bob’s beatitudinal insight for the legal profession? He muses: “Conrad is best at exposing moral pretensions. We must be stripped of our pretensions before we can build our moral lives on solid ground.”³⁷ As so “[t]he lessons from *Nostromo* for the individual come straight from the Sermon on the Mount—both honor and wealth ultimately provide little meaning.”³⁸ With this, Bob offers an excellent explanation of what beatitudinal meekness might mean for professional life. Christ-like meekness is to be stripped of pretensions, not for the purpose of avoiding the battle for the good, not because we close our eyes to evil in the world, but precisely to lay the necessary foundations for a solid commitment to the good.³⁹

What to make of the extent to which corrosive pretensions permeate our culture and professional life? Bob admits that “honor is one of the only ethical tools available to the profession. It is one of the few secular sources of ethical motivation.”⁴⁰ It is not enough to retreat into a personal effort to be good and do good. We need to pay attention to the immense cultural project of shifting the lens on what gets praised as “good” within the legal profession. This could

33. *Id.*

34. *Id.* at 873; *see also id.* at 894 (“*Nostromo* illustrates the limitations of an ethic based on honor. Such an ethic is fragile, concerned with appearance, subject to the fickleness of public opinion, likely to promote arrogance in those who are honored, and no better than the values of those who do the honoring.”).

35. *Id.* at 873.

36. *Id.* at 889 (quoting WILLIAM R. MUELLER, *CELEBRATION OF LIFE: STUDIES IN MODERN FICTION* 94 (1972)).

37. *Id.* at 890.

38. *Id.* at 893–94 (footnote omitted).

39. Bob’s suggestions for Christians entering the scholarly arena during a time when there was still very little explicitly Christian analysis of modern legal issues also reflects this capacity to be stripped of pretention: “Christians should enter the scholarly arena, explicitly identify their presuppositions, reach thoughtful conclusions, and welcome and respond to critiques of their work.” Robert F. Cochran, Jr., *Christian Perspectives on Law and Legal Scholarship: Introduction*, 47 J. LEGAL EDUC. 1, 12 (1997).

40. Cochran, *Nostromo*, *supra* note 2, at 894.

be one way to describe the roots of Bob's incredibly impressive work of the Nootbaar Institute over the years: helping all of us to delve deeply into an alternative vision that could in turn impact professional culture in a positive way.

What might it mean for us to be meek in a Christ-like way today? Regardless of where we place ourselves, on whatever side of the political aisle, I believe we would be hard-pressed to find someone who has not been wounded in some way by current levels of political polarization and dissension. What might it mean to strip ourselves of our pretensions, to open ourselves to a more solid foundation for professional and political life?⁴¹

In 1995, in a review of books about the woes of the legal profession by Mary Ann Glendon and Anthony Kronman, Bob's scholarship points us to the wisdom of Dietrich Bonhoeffer as he navigated the excruciatingly difficult moral quandaries that permeated the resistance to Hitler.⁴² Bonhoeffer writes:

We have learnt the art of deception and of equivocal speech. Experience has made us suspicious of others and prevented us from being open and frank. Bitter conflicts have made us weary and even cynical. Are we still serviceable? It is not the genius that we shall need, not the cynic, not the misanthropist, not the adroit tactician, but honest straightforward men. Will our spiritual resources prove adequate and our candor with ourselves remorseless enough to enable us to find our way back again to simplicity and straightforwardness?⁴³

When probing these incredibly delicate questions, when one is choosing between options that are all difficult and delving into the tensions between the virtues, I believe that Bob would help us to see that meekness, to be stripped of pretensions, means being brutally honest with ourselves about the moral cost to ourselves and to others in the midst of these games of hardball. He would also encourage us to be extremely attentive to the ways in which we run the risk of these practices becoming a habit. As Bob explains: "Deception

41. Some of my musings on the practical steps we might take to embody Christ-like meekness in politics and education are collected in AMY UELMEN, *FIVE STEPS TO A POSITIVE VISION OF POLITICS* (2014) and AMY UELMEN & MICHAEL KESSLER, *FIVE STEPS TO HEALING POLARIZATION IN THE CLASSROOM* (2018).

42. See Robert F. Cochran, Jr., *Lawyers and Virtues*, 71 NOTRE DAME L. REV. 707, 707, 729 (1996).

43. *Id.* at 729 (quoting DIETRICH BONHOEFFER, *PRISONER FOR GOD: LETTERS AND PAPERS FROM PRISON* 27 (1953)).

or harming others, even in a good cause, even when it is the best decision, may become a habit.”⁴⁴ For the legal profession, he warns: “Unlike Bonhoeffer’s rigorous Lutheran moral theology, the lawyer codes and most professional responsibility materials give us no sense that danger accompanies the things that they call on lawyers to do.”⁴⁵

Blessed are you, Bob. Your capacity to model Christ-like meekness, to be stripped of pretensions, is a candle in the darkness of our world that shines on a path toward gaining some cultural ground even now.

V. BLESSED ARE THE MERCIFUL

All of this connects with a word that is so needed in our culture now: mercy. “Blessed are the merciful”⁴⁶: empathy, compassion, understanding, in the encounter with anyone’s experience of suffering, fragility, limits. Mercy also embraces situations that call for difficult decisions where there seems to be no good option. It evokes what seems to be the common and pervasive desire to live and move in a “judgment-free zone.”

Bob’s heart of mercy is in full display in his analysis of the Conrad character Nostromo. He writes:

One who reads Nostromo experiences Nostromo’s obsession with honor, his struggle for self-identity when he fears that his honor will be lost, and the meaninglessness of his slavery to the silver. It may be that the experience of sharing the emptiness, first of Nostromo’s life built on honor, and then on “material interests” will cause the reader to search for a firm foundation for life.⁴⁷

Here is a “judgment-free” zone if I ever saw one: “I suspect that most have sensed within ourselves the desire for the approval of others. Nostromo seems real because he merely carries to an extreme what we see within ourselves.”⁴⁸

This level of empathy in turn leads to a profound effort to *understand*: what might be at the root of a person’s moral downfall? Maybe, just maybe,

44. *Id.*

45. *Id.* at 729–30 (“Actions (such as deception) are more likely to become habits when they are taken in obedience to rules than when they are the product of the exercise of virtues.”).

46. *Matthew* 5:7.

47. Cochran, *Nostromo*, *supra* note 2, at 894.

48. *Id.* at 870.

it is not because that person is inherently bad, and so to be cast aside in condemnation. Perhaps, Bob surmises, it was because this character “had no other source of identity[;] [h]e was an orphan, without family, without country, and without religious congregation.”⁴⁹ “Without a personal identity, he was unable to establish intimate relationship and sought to replace them with the praise of the people.”⁵⁰ Perhaps his “thirst for honor came from his lack of community.”⁵¹

Where does mercy lead? It leads back to community, and what we can do together to foster and nurture the potential foundations for moral community. Bob writes: “If I am right, that one of the reasons for Nostromo’s obsession with honor and his moral downfall is his unconnectedness, one of the lessons of *Nostromo* may be that it is within communities—within families, religious congregations, and friendships—that we can find moral foundations.”⁵²

From a slightly different but not unrelated angle: Bob’s attitude of mercy is also evident in his charitable reading of his colleagues’ work. For example, amidst intense debates about models for professional life and client counseling, Bob’s analysis of Monroe Freedman’s critique of his work did not get stuck in what may have been Freedman’s caricatures, but thoughtfully probed the complexity of why his models might have been misunderstood or mischaracterized.⁵³

The width of Bob’s mercy is grounded in the depth of his appreciation for the moral complexity that weaves through the lawyer’s experience in professional life. This appreciation is especially evident in Bob’s elegant account of Louis Brandeis’s lectures on how moral complexity may lead to a need for, or at least sensitivity to, the insight of “counsel for the situation.”⁵⁴ Similarly,

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.* at 893.

53. See, e.g., Cochran, *supra* note 26, at 355–56 (evinced Cochran’s kind, measured approach to reading his colleagues’ work—even those poised as a criticism to his own).

54. See, e.g., Robert F. Cochran, Jr., *Louis D. Brandeis and the Lawyer Advocacy System*, 40 PEPP. L. REV. 351, 356–57 (2013) (“In the first place, questions instead of being simple, so that it is clear who is in the right, are extremely complicated; it is often impossible to tell who is either legally or morally right, until the case is tried out in court, and the decision rendered by the proper tribunal. . . . In the second place, in a large number of cases, both parties are right, or neither party is in the wrong. . . . In the third place there are cases where one party has a legal right, and the other the moral, and there can be no impropriety in insisting on behalf of any one [sic] legal rights.” (quoting LOUIS D. BRANDEIS’S MIT LECTURES ON LAW (1892–1894) 247–48 (Robert F. Cochran ed., 2012))).

Bob's discussions about the limits of models for "client centered counseling" challenge whether the lawyer's moral repugnance for a client's chosen path is a helpful threshold when working through complex moral questions, and push toward models that more closely align with ordinary conversations.⁵⁵

Blessed are you, Bob, for all of the ways in which you have brought your merciful heart to your relationships, your work, and your scholarship. Mercy shall be yours also because of how you have helped to sow the seeds of mercy in the terrain of our reflections on professional life.

VI. BLESSED ARE THOSE WHO HUNGER AND THIRST FOR JUSTICE,
BLESSED ARE THE PURE OF HEART

The next section brings together two Beatitudes: hunger for justice⁵⁶ and purity of heart.⁵⁷ As John Miller reflects, the reference to "hunger and thirst" prompts "a look at our heart's desire."⁵⁸ "What hungers and desires operate within us? Which of them commands our utmost loyalty?"⁵⁹ Answering the question, "Who is pure of heart?," Bonhoeffer reflects, "Only those who have surrendered their hearts completely to Jesus that he may reign in them alone. Only those whose hearts are undefiled by their own evil—and by their own virtues too."⁶⁰

In line with Bob's discussion of Nostromo, Clarence Jordan observes:

[W]hen [people] attempt to live a double life spiritually, that is, to

55. See *id.* at 361–62.

56. See *Matthew* 5:6 (Revised Standard Version). Although the Revised Standard Version reads "righteousness," for this discussion I will use the alternative translation, "justice." Together with Dallas Willard, Bob has delved into the nuances of the translation. See Cochran & Willard, *The Kingdom of God*, *supra* note 2, at 151, 154–55 (2013) (discussing translations of *dikaïosynē* as "justice" as compared with "righteousness"); see also NICHOLAS WOLTERSTORFF, *JUSTICE: RIGHTS AND WRONGS* 111–12 (2008) (suggesting that the proper translation should be determined by the context, but that "justice" may be the better translation for the second beatitude: "Apparently, the translators [of the most common English translations] were not struck by the oddity of someone being persecuted because he is righteous. My own reading of human affairs is that righteous people are either admired or ignored, not persecuted; people who pursue justice are the ones who get in trouble.").

57. See *Matthew* 5:8.

58. JOHN W. MILLER, *THE CHRISTIAN WAY: A GUIDE TO THE CHRISTIAN LIFE BASED ON THE SERMON ON THE MOUNT* 32–33 (1969).

59. *Id.* at 33.

60. DIETRICH BONHOEFFER, *THE COST OF DISCIPLESHIP* 112 (1995).

appear pure on the outside but are not pure in the heart, they are anything but blessed. Their conflicting loyalties make them wretched, confused, tense. And having to keep their eyes on two masters at once makes them cross-eyed, and their vision is so blurred that neither image is clear.⁶¹

Just as there is a deep connection between “doing good” and “being good,” so also “seeing” and “being” are linked. Simon Tugwell observes: “The kind of person you are affects the kind of world that you see. . . . And conversely what you see affects what you are.”⁶²

This leads to what I consider to be one of the most important contributions of Bob’s scholarship: his capacity to offer to the field of professional responsibility a clear-eyed critical perspective on the foundation for legal ethics and on the place and limits of the rules.⁶³ On this basis, together with Tom Shaffer, Bob offered an extraordinarily creative contribution to the scholarly discourse on models for lawyers in counseling clients.⁶⁴

For example, Bob’s review of Glendon’s and Kronman’s work offers an insightful analysis of the limitations of rule-following, and the need for deeper foundations for discerning what may be the right thing to do in a given situation.⁶⁵ Virtues are more important than rules, especially when one realizes that in some circumstances rules may “require the wrong behavior.”⁶⁶ But here too, clear-eyed critique is tempered by mercy and meekness. Bob appreciates the realistic limits of our professional and cultural landscape. He writes:

I am not suggesting that we do away with or weaken the rules of the profession. With the lack of attention to virtues, the rules may be all that we have. Given the current dominance of the adversary mentality among lawyers, fewer rules might merely provide more room for lawyer advocacy. My suggestion is that we need to look for ways to

61. CLARENCE JORDAN, *SERMON ON THE MOUNT* 33 (1970).

62. TUGWELL, *supra* note 8, at 98.

63. See Cochran, *supra* note 42, at 723–25.

64. See, e.g., *id.* at 724 (discussing attorney-client issues, including “whether a lawyer should give a client legal information that might enable the client to break the law”).

65. See *id.* at 723–24 (“An additional weakness with rules, relative to virtues, is that in many situations, rules require the wrong behavior. Rules can deal with some fact situations, but there often will be variations in facts that call for different answers. Variations in facts will alter what a moral person would do.” (footnote omitted)).

66. *Id.* at 723.

teach and encourage virtues in lawyers. Lawyers need to see client loyalty as a virtue, but they also need to give weight to the other virtues that come into play in legal representation: truthfulness, justice, and mercy.⁶⁷

For the problems we face today, we cannot meditate enough on Bob's work to sustain the argument that a more complete sense of justice and righteousness is more likely to emerge from a *contextual* analysis of the client's situation. For example, his and Tom Shaffer's 2007 analysis of the ethics of asserting "technical defenses" reflects a "hunger and thirst" for the dimensions of righteousness that include an appreciation for the injustice that can emerge due to an imbalance in power or resources, or other nuances of the relationships at stake and the social backdrop of the dispute.⁶⁸ Even the question of what exactly is "technical" can be shot through with complex moral inquiry.

Bob's clarity of vision and purity of heart have also led to a strong critique of professional neutrality and of the idea that justice is best achieved when professionals strip themselves of religious perspectives and points of reference. He muses:

In my view, there is no alternative to religious faith affecting the way that a judge decides cases. Some speak as if it is possible to be neutral. I have bad news for those of you who want to separate religion from law: like it or not, religious faith affects almost everything that we do. Most people have the experience of setting aside their views (including their religious views) and dealing with an issue from another perspective. But when we try and put our religious faith aside, that probably does not mean that we operate on neutral values; it is likely that we merely operate based on someone else's religious values. Some sort of faith will affect a judge's work; it is just a question of what faith it will be.⁶⁹

Bob's purity of heart also enables him to see the possibilities that friendship has to offer for a model of client counseling. As he explains in a 2003

67. See *id.* at 726–27 (probing what are the educational settings that foster cultivation of virtue, given the fact that they are more likely to be “caught than taught”).

68. Shaffer & Cochran, *Technical Defenses*, *supra* note 2, at 346–53.

69. Cochran, *supra* note 13, at 309.

symposium:

Central to the traditional notion of friendship was a moral component: friends help friends become better people. . . . [F]riends collaborate in the good. A friend is unlikely to impose his or her will on a friend, but neither will a friend sit by and let a friend go down a wrong path.⁷⁰

Similarly, in lifting up the counter-cultural potential of models for restorative justice, Bob thoughtfully explores the ethics of criminal defense and the “not guilty” plea not from the perspective of an adversarial tug-of-war, but as a *moral* claim. He notes: “What is for lawyers a casually used term-of-art is viewed by ordinary people as a serious moral claim by the defendant that he did not commit the crime.”⁷¹ Bob argues that the practice of instructing defendants to plead “not guilty” may undercut prospects for the work of restorative justice.⁷² To what extent should criminal defense counseling surface the client’s moral experience, including the extent to which a client experiences the “not guilty” plea as lying or as a failure to accept responsibility for one’s conduct?⁷³

Bob does not pretend that the answers to these questions are easy. As those immersed in these debates know, these arguments are made in the midst of a thicket of difficult questions about client autonomy, manipulation of power, and the potential messiness of personal and relational entanglements.⁷⁴ In the criminal context, decisions are often made against the backdrop of overly harsh penalties and dehumanizing prison conditions.⁷⁵ Both Bob and

70. Robert F. Cochran, Jr., *Introduction: Three Approaches to Moral Issues in Law Office Counseling*, 30 PEPP. L. REV. 592, 599 (2003); see also Robert F. Cochran, Jr., *Enlightenment Liberalism, Lawyers, and the Future of Lawyer-Client Relations*, 33 CAMPBELL L. REV. 685, 691–93 (2001) (discussing how Aristotle’s notion of friendship informs the model).

71. Robert F. Cochran, Jr., *The Criminal Defense Attorney: Roadblock or Bridge to Restorative Justice*, 14 J.L. & RELIGION 211, 227 (1999).

72. *Id.*

73. *Id.*; see also Robert F. Cochran, Jr., *Crime, Confession, and the Counselor-at-Law: Lessons from Dostoyevsky*, 35 HOUS. L. REV. 327, 360–71 (1998) (analyzing the moral consequences of unconfessed guilt and of confession in light of Dostoyevsky’s *Crime and Punishment* and *The Brothers Karamazov*).

74. See generally Cochran, *supra* note 73, at 336–50, 383–96; Robert F. Cochran, Jr., *Legal Representation and the Next Steps Toward Client Control: Attorney Malpractice for the Failure to Allow the Client to Control Negotiation and Pursue Alternatives to Litigation*, 47 WASH. & LEE L. REV. 819 (1990) (describing the difficult interactions between lawyers and their clients regarding autonomy, manipulation, and the messiness of personal entanglements).

75. Cochran, *supra* note 71, at 225.

Tom Shaffer appreciated these complexities. As they reflected: “The moral life has risks, and there are risks to moral discourse. But we think that the risks are worth it.”⁷⁶

Here, it is helpful to place their model for engagement with clients against the backdrop of a hunger and thirst for righteousness that critically assesses our moral foundations for legal ethics, and queries what resources might help to strengthen that foundation.⁷⁷ One reason it may be difficult to see friendship as a model is because, as discussed above, the profession is too focused on the external goods of power, prestige, and money.⁷⁸

In light of this critique, the challenge is to open the profession to reform from without, garnering the critical resources that can help to form in students the ability, skill, and temperament for working through difficult moral problems in conversation with their clients as well as colleagues and many other people in their lives.⁷⁹ Purity of heart helps Bob to identify where to find those resources. With Tom Shaffer, he submits: “The most important morals our students have are the morals they bring to us law teachers from family, neighborhood, and congregation. Our keenest obligation to them is to honor that moral formation.”⁸⁰

Blessed are you, Bob, for all of the ways in which your own hunger and thirst for a deeper sense of justice have enriched our discourse about legal ethics with a beautiful vision of how to humanize our relationships in this field. And blessed also are we, for how the clarity of your vision has helped many to tap into these alternative resources—gifts of God—and so contribute

76. Thomas L. Shaffer and Robert F. Cochran, Jr., *Lawyers as Strangers and Friends: A Reply to Professor Sammons*, 18 U. ARK. LITTLE ROCK L.J. 69, 84 (1995).

77. See, e.g., Robert F. Cochran, Jr., *The Rule of Law(yers)*, 65 MO. L. REV. 571, 585–87 (2000) (reviewing WILLIAM H. SIMON, *THE PRACTICE OF JUSTICE: A THEORY OF LAWYER’S ETHICS* (1998) discussing the practice of bringing explicit moral judgment into professional decision-making).

78. See discussion *supra* note 35; Shaffer & Cochran, *supra* note 76, at 80 (“There is a danger there that the term ‘practice’ will lose its moral roots and that the moral legitimacy which it carries will be used to justify the self-serving things that lawyers do—just as the term professional . . . has been co-opted by the adversarial elitist advocates of the Bar.”).

79. Shaffer & Cochran, *supra* note 76, at 83.

80. See *id.* at 80. See generally Robert F. Cochran, Jr., *Professionalism in the Postmodern Age: Its Death, Attempts at Resuscitation, and Alternate Sources of Virtue*, 14 NOTRE DAME J.L. ETHICS & PUB. POL’Y 305 (2000). Note also the specific suggestion for law school seminars on religion and the legal profession. *Id.* at 319 (“Let me make a specific proposal. Law schools should offer seminars that explore the implications of specific religious and moral traditions for the lawyer. Students could explore the implications of their own traditions for their lives as lawyers. Such seminars might enable some to find meaning in the practice of law and inspire them to find ways that their practice might serve the public interest.”).

to profound renewal in professional life.

VII. BLESSED ARE THOSE WHO ARE PERSECUTED FOR THE SAKE OF JUSTICE

In a 2011 introduction to a Pepperdine Symposium on *Compromise and Constitutionalism*, Bob acknowledged a significant “tension” between the Beatitudes.⁸¹ While “[b]lessed are the meek,” and “[b]lessed are the merciful” seem to point in the direction of compromise, “[b]lessed are those who are persecuted for the sake of justice” seems to cut in the other direction.⁸² In fact, there may be times when one should stick to one’s principles regardless of the relational consequences.⁸³ Perhaps for this reason Bob left a question mark in the title of his piece: “*Blessed are the Compromisers?*”⁸⁴

Bob’s capacity to sit deeply with a question mark is very healthy, and yet another expression of being stripped of pretensions in the search for how to respond to personal, ethical, and professional challenges in our complicated world. It suggests to me a capacity to ponder, to hold in one’s heart what is still a mystery. That question mark also suggests Bob’s habit, over many years, of taking in these kinds of tensions and profound differences of opinion and meeting them with open receptivity, even curiosity for further exploration, rather than rancor, resentment, and disappointment.⁸⁵ And this too is a taste of the Kingdom.

VIII. BLESSED ARE THE PEACEMAKERS

“Blessed are the peacemakers.”⁸⁶ Last, but of course not least: Bob as a peacemaker. I think Glen Stassen and David Gushee capture well the heart of this Beatitude:

Being a peacemaker is part of being surrendered to God, for God

81. Cochran, *Blessed are the Compromisers?*, *supra* note 2, at 814–15.

82. *Id.*; *Matthew* 5:5, 7, 10.

83. Cochran, *Blessed are the Compromisers?*, *supra* note 2, at 814–15.

84. *Id.* at 813, 815.

85. *Cf.* MASSIMO BORGHESI, *THE MIND OF POPE FRANCIS: JORGE MARIO BERGOGLIO’S INTELLECTUAL JOURNEY* 122–30 (Barry Hudock trans., Liturgical Press Academic 2017) (discussing how a “Theory of Polar Opposition” informs how Pope Francis articulates a commitment to the common good).

86. *Matthew* 5:9.

brings peace. We abandon the effort to get our needs met through the destruction of enemies. God comes to us in Christ to make peace with us; and we participate in God's grace as we go to our enemies to make peace.⁸⁷

I am sure there would be dozens of ways to illustrate how Bob's work and his relationships are permeated by this Beatitude, but here I would like to emphasize his institutional contribution to legal ethics, in the form of offering a thoughtful, workable alternative to the excesses of the adversarial model: Collaborative Practice.⁸⁸

He explains: "[Collaborative Practice] encourages problem-solving or interest-based negotiation. . . . When clients enter into [Collaborative Practice], they engage their lawyers as advisors and negotiators. This allows the lawyers to focus their professional skills on problem solving, improving communication, de-escalating conflict, and working steadily toward resolution of all issues."⁸⁹

As with the discussion of mercy,⁹⁰ what also strikes me in this area of Bob's scholarship is his merciful realism. He knows that lawyers (and clients) are prone to posturing and gamesmanship, often opening their negotiations

87. DAVID P. GUSHEE & GLEN H. STASSEN, *KINGDOM ETHICS: FOLLOWING JESUS IN CONTEMPORARY CONTEXT* 34 (2d ed. 2016).

88. See Robert F. Cochran, Jr., *Legal Ethics and Collaborative Practice Ethics*, 38 *HOFSTRA L. REV.* 537, 567 (2009) [hereinafter Cochran, *Legal Ethics*] ("The entire legal profession—lawyers, judges, law teachers—has become so mesmerized with the stimulation of the courtroom contest that we tend to forget that we ought to be healers—healers of conflicts. . . . Should lawyers not be healers? Healers, not warriors? Healers, not procurers? Healers, not hired guns?" (quoting Warren E. Burger, *The State of Justice*, 70 *A.B.A. J.*, April 1984, at 62, 66)). See generally Robert F. Cochran, Jr., *Collaborative Practice's Radical Possibilities for the Legal Profession: "[Two Lawyers and Two Clients] for the Situation,"* 11 *PEPP. DISP. RESOL. L.J.* 229 (2011).

89. Cochran, *Legal Ethics*, *supra* note 88, at 544 (footnote omitted); see *id.* ("CP can assist in achieving the aspiration suggested by Paul Brest and Linda Krieger: 'At their best, lawyers serve as society's general problem solvers, skilled in avoiding as well as resolving disputes and in facilitating public and private ordering.'").

90. See discussion *supra* note 47 and accompanying text.

with highly inflated or lowball proposals.⁹¹ The collaborative practice approach is specifically designed to anticipate and address those concerns.⁹² This form of peacemaking also facilitates communication and collaboration across professional disciplines, enabling lawyers to join with mental health and financial professionals to work as a team in order to coordinate service that the clients often need, especially in family law matters.⁹³

Blessed are you, Bob. How many families, how many children, have been spared exposure to ongoing conflict because your work on the guidelines for collaborative practice have helped to fortify a more peaceful and cooperative approach to resolving important disputes? Thanks to your peacemaking work, our profession has taken steps forward to recognize, even if just a little bit more, how we can work together to see and treat each other as children of God. As Michael Crosby writes, “Making peace makes us God’s children—and kin to each other.”⁹⁴

Rejoice and be glad, Bob. Great is the reward of a life spent in the effort to “do good” and to “be good,” sharing with a generous heart, mind, and soul the enormous gifts that God’s love had entrusted to your stewardship. Thank you for all of the ways in which you have helped us to experience the Kingdom in legal education and in professional life.

91. See Cochran, *Legal Ethics*, *supra* note 88, at 544 (“The most extensive qualitative study of CP to date found that it ‘reduces the posturing and gamesmanship of traditional lawyer-to-lawyer negotiation, including highly inflated and lowball opening proposals’” (quoting Julie MacFarlane, Dep’t of Justice Can., *The Emerging Phenomenon of Collaborative Family Law (CFL): A Qualitative Study of CFL Cases*, at ix, x, 77 (2005), available at https://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/2005_1/pdf/2005_1.pdf)).

92. See also *id.* (supplying an appreciative discussion of the limits of the model, including cases involving domestic violence raise special considerations).

93. *Id.* at 545.

94. MICHAEL H. CROSBY, *SPIRITUALITY OF THE BEATITUDES: MATTHEW’S VISION FOR THE CHURCH IN AN UNJUST WORLD* 172 (rev. ed. 2005).